CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	Ø	Force		Discourt.	☐ U.S.
Genevieve Lamont		Squad #8	201910189		Abuse		O.L.	☐ Injury
Incident Date(s)		Location of Incident:	•	P	Precinct:	18	Mo. SOL	EO SOL
Friday, 11/22/2019 6:32 PM					28	5,	/22/2021	1/6/2022
Date/Time CV Reported		CV Reported At:	How CV Reported	:	Date/Time Received at CCRB		RB	
Mon, 11/25/2019 9:45 AM		CCRB	Phone		Mon, 11/25/2019 9:45 AM		1	
Complainant/Victim	Type	Home Addro	ess					
Witness(es)		Home Addre	ess					_
Subject Officer(s)	Shield	TaxID	Command					
1. CPT Mathew Byrnes	00000	945539	034 PCT					
Witness Officer(s)	Shield N	o Tax No	Cmd Name					
1. DT3 John Kamor	04363	930453	T.A.R.U					
2. SGT Jose Vargas	03715	942887	PBMN					
3. POM Alejandro Thomas	10965	936086	PBMN					
4. POM Rafael Valerio	08545	933437	PBMN					
Officer(s)	Allegatio	on			Inve	estiga	ator Recon	nmendation
A.CPT Mathew Byrnes	Force: C vehicle.	Force: Captain Mathew Byrnes struck § 87(2)(b) with a vehicle.			h a			
B.CPT Mathew Byrnes	Force: C vehicle.	Force: Captain Mathew Byrnes struck individuals with a vehicle.						

Case Summary

On November 25, 2019, \$\frac{87(2)(5)}{2019}\$ filed this complaint with the CCRB by phone.
On November 22, 2019, at approximately 6:32 p.m., \$\frac{87(2)(5)}{2019}\$ who was in a protest near
46 West 126th Street in Manhattan, was allegedly struck by a scooter operated by Captain Mathew
Byrnes of the 34th Precinct; Captain Byrnes also allegedly drove into a group of unidentified
protesters in the street, striking some of them (**Allegations A and B: Force;** \$\frac{87(2)(9)}{2019}\$).

\$\frac{87(2)(5)}{2019}\$ took a photograph of Captain Byrnes during the incident [BR01]. She was not arrested

During the same protest, TARU footage, taken by Det. John Kamor of the TARU Unit, captured unknown officers pulling an individual from a gate, before arresting him (**Allegations C: Force**; §87(2)(9) [BR02 through BR08].

No body-worn camera (BWC) footage was received by the investigation [BR09].

Findings and Recommendations

Allegation (A) Force: Captain Mathew Byrnes struck 587(2)(b) with a vehicle. Allegation (B) Force: Captain Mathew Byrnes struck individuals with a vehicle.

or summonsed as a result of the incident.

It remains in dispute whether Captain Byrnes struck §87(2)(b) and other individuals with a scooter.

testified that, between 5:15 p.m. to 5:30 p.m., she participated in a march protesting NYPD presence inside the MTA subways. The march began at the plaza of Adam Clayton Powell Jr. State Office Building in Manhattan. At approximately 6:32 p.m., the march reached the intersection of West 126th Street and Malcom X Boulevard. Protesters were both in the street and on the sidewalk; about 15 officers were telling protesters in the street to get on the sidewalk and shoving them towards the sidewalk. § 87(2)(b) was on the sidewalk at this point and was attempting to coordinate other individuals to get out of the street. She did not recall officers issuing commands over the loudspeaker. At some point, the sidewalk became full and protesters were unable to get onto it. moved down the block, she heard the sound of a motorcycle behind her; she did not hear any commands prior to the scooter approaching, but heard screaming from behind, yelling, "Move, you're gonna get hit". §87(2)(b) attempted to move out of the way, but felt the scooter strike her on her right side by her hip, causing her to stumble into a gated tree. She then observed the operator of the vehicle, Captain Byrnes, drive off the sidewalk and into a crowd gathered on the street, causing two or three of them to fall down. She did not hear any warnings issued by Captain Byrnes or any other warnings, such as a horn, before striking either her or the individuals in the street. stated that it appeared that Captain Byrnes intentionally struck the group of protesters, as he did not slow down prior to hitting them. He stopped driving the scooter once he hit the crowd in the sustained bruising on her hip ad ankle, although she did not know if this was directly from the scooter or if it was from hitting to the gated tree; she did not seek medical treatment for these injuries. She observed additional officers, she was unsure how many, move to arrest the individuals who were struck by the scooter, but was unable to provide their descriptions and the investigation was unable to identify these officers [BR10].

was also present during the protest. She stated that, when she and the protest reached West 126th Street, she attempted to get on the sidewalk, as she was on the street. She observed one officer strike a protester with his scooter, although this was on the street. She did not know if any officers on scooters drove onto the sidewalk. This officer struck two or three other people on the street, knocking them to the ground. [887(2)(6)] continued walking with the crowd, as she wanted to avoid contact with the police. She did not know the individuals who were struck by the scooter [BR11].

took a photograph of the officer who she alleged struck her and other individuals. The officer is depicted on an NYPD scooter, with license plate #2544 [BR01]. A FLEET request determined that the scooter was assigned to the Manhattan North Scooter Task Force [BR12].

During his interview, Captain Byrnes was shown the photograph, taken by \$87(2)(6) of the officer who allegedly struck her with a scooter [BR01]. After viewing the photograph, Captain Byrnes identified himself as the officer on the scooter. He testified that he was operating a scooter the day of the protest, as at the time he was assigned to the Manhattan North Scooter Task Force, but that he did not strike any individual with his scooter and did not see any other officer do so. He did not drive on the sidewalk at any point during the protest and did not recall having to give any orders for protesters to move out of the way. Captain Byrnes stated that other members of the Scooter Task Force Unit were present during the incident, although he did not recall who and stated that the officer in the photograph did not resemble any other officer from his unit [BR13].

Det. Kamor testified that, upon arriving at the protest, he observed a crowd of about four or five hundred people; he vaguely remembered walking with the crowd on the sidewalk. He stated that the crowd was organized and orderly and did not walk in the street. He did not recall if any officers were on scooters, or if any officer drove onto the sidewalk and struck any protesters [BR14].

There is no BWC footage for this incident [BR09]. TARU footage of the protest did not capture this incident [BR02 through BR08]. The investigation was unable to obtain any surveillance footage for this incident.

§ 87(2)(g)			
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Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which §87(2)(b) has been a party [BR15].
- Captain Byrnes has been a member of service for 13 and has been a subject in two CCRB complaints and two allegations, none of which were substantiated. §87(2)(9)

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- On July 13, 2021, a FOIL request was submitted to the New York City Office of the Comptroller to determine if a Notice of Claim was filed in regards this to complaint [BR16].
- According to the Office of Court Administration (OCA), § 87(2)(6) has no history of convictions in New York City [BR17].

Squad:	_8		
Investigator:	_Genevieve Lamont_ Signature	Inv. Genevieve Lamont Print Title & Name	07/15/2021_ Date
Squad Leader:	Ethan De Angelo Signature	IM Ethan De Angelo Print Title & Name	<u>7/15/2021</u> Date
Reviewer:	Signature	Print Title & Name	 Date